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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,560	10/08/2003	Tun-Hsing Liu	MTKP0041USA	2559
27765	7590	12/28/2007		EXAMINER
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION				TECKLU, ISAAC TUKU
P.O. BOX 506			ART UNIT	PAPER NUMBER
MERRIFIELD, VA 22116			2192	
			NOTIFICATION DATE	DELIVERY MODE
			12/28/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)
	10/605,560	LIU ET AL.
	Examiner Isaac T. Tecklu	Art Unit 2192
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
Period for Reply		
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status		
<p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>05 September 2007</u>.</p> <p>2a)<input checked="" type="checkbox"/> This action is FINAL. 2b)<input type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>		
Disposition of Claims		
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-34</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>1-34</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>		
Application Papers		
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</p> <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p style="margin-left: 20px;">Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).</p> <p>11)<input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</p>		
Priority under 35 U.S.C. § 119		
<p>12)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p>1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p>2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p>3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>		
<p>* See the attached detailed Office action for a list of the certified copies not received.</p>		
Attachment(s)		
<p>1)<input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.</p> <p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application</p> <p>6)<input type="checkbox"/> Other: _____.</p>		

DETAILED ACTION

1. This action is responsive to the amendment filed on 09/05/2007.
2. Claims 1, 4-5, 9, 12-13, 20, 23-24-31 and 34 have been amended.
3. Claims 1- 34 have been reexamined.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Kato (US 6,754,723 B1).

Per claim 1 (currently amended), Kato discloses a method for refreshing replacing at least a program code in an electronic system (e.g. Fig. 2 and related text), the electronic system comprising a host device (e.g. Fig. 1, 208 and related text) and a peripheral device (e.g. Fig. 1, 100 and related text), the peripheral device comprising:

a control circuit for executing a first program code to control operations of the peripheral device according to an instruction from the host device (e.g. Fig. 1, 102 and related text); the method comprising:

accessing a second program code (col. 3:10-15 "... peripheral device is connected to the printer ... firmware mismatch ... firmware device may be modified ..." and e.g. Fig. 2, S18 and Fig. 4 and related text); and

executing an inspection step in the host device before the second program code replaces the first program code of the peripheral device (col. 4: 39-50 "... a check is made to verify whether or not an optional device is connected ... " e.g. Fig. 2, S14 and S16 and related text) to utilize the host device to check whether partial content of the second program code conforms to a predetermined content of the first program code (col. 4:1-15 "... whether or not there is compatibility ..." and e.g. FIGS. 4(A) - 4(D) and related text)),

Per claim 2, Kato discloses the method of claim 1 wherein the peripheral device further comprises a storage memory for non-volatility storing the first program code (e.g. Fig. 1, 204 and related text); when the first program code is replaced by the second program code, the first program code is erased from the storage memory, and the second program code is recorded into the storage memory (e.g. Fig. 1, 206 and related text).

Per claim 3, Kato discloses the method of claim 1 wherein when executing the inspection step in the host device before the second program code replaces the first program code, the inspection step is proceeded before the control circuit executes the second program code to control operations of the peripheral device (col. 4: 1-10 "... determines operation is possible ... and firmware is updated ...").

Per claim 4, Kato discloses the method of claim 1 wherein the predetermined content is partial content of the first program code or a constant recorded in the first program code (e.g. Fig. 4, firmware compatibility table A and related text) and executing the inspection step in the host device comprises checking whether the second program code includes partial content of the first program code, or whether the constant recorded in the second program code is equal to the constant in the first program code, or whether the constant recorded in the second program code conforms to a predetermined range of the constant in the first program code (col. 4: 39-50 "... a check is made to verify whether or not an optional device is connected ... " e.g. Fig. 2, S14 and S16 and related text).

Per claim 5, Kato discloses the method of claim 1 wherein the predetermined content is a fixed content so that the predetermined content cannot be changed (e.g. Fig. 4, firmware compatibility table A and related text).

Per claim 6, Kato discloses the method of claim 1 wherein when executing the inspection step in the host device, the host device will access partial content in a predetermined address in the second program code to check whether the partial content conforms to the predetermined content (col. 4: 1-10 "... determines operation is possible ... and firmware is updated ...").

Per claim 7, Kato discloses the method of claim 1 further comprising easing to replace the first program code with the second program code after executing the inspection step in the host device if partial content of the second program code does not conform to the predetermined content (col. 4: 1-10 "... determines operation is possible ... and firmware is updated ...").

Per claim 8, Kato discloses the method of claim 1 further comprising replacing the first program code with the second program code after executing the inspection step in the host device so that the control circuit can execute the second program code to control operations of the peripheral device if partial content of the second program code conforms to the predetermined content (col. 4: 39-50 "... a check is made to verify whether or not an optional device is connected ... " e.g. Fig. 2, S14 and S16 and related text).

Per claim 9 (currently amended), Kato discloses a method for refreshing replacing at least a program code in an electronic system, the electronic system comprising a host device and a peripheral device, the peripheral device (e.g. Fig. 2 and related text) comprising:

a control circuit for executing a first program code to control operations of the peripheral device (e.g. Fig. 1, 102 and related text); the method comprising:

transmitting a second program code from the host device to the peripheral device; and executing a device inspection step, before the second program code replaces the first program code of the peripheral device, to utilize the control circuit to check whether partial content of the

second program code conforms to a predetermined content of the first program code (col. 3:10-15 "... peripheral device is connected to the printer ... firmware mismatch ... firmware device may be modified ..." and e.g. Fig. 2, S18 and Fig. 4 and related text).

Per claim 10, Kato discloses the method of claim 9 wherein the peripheral device further comprises a storage memory for non-volatilely storing the first program code (e.g. Fig. 1, 204, FIGS. 4(A) - 4(D) and related text); when the first program code is replaced by the second program code, the first program code is erased from the storage memory, and the second program code is recorded into the storage memory (e.g. Fig. 1, 206 and related text).

Per claim 11, this is another method version of the claimed method discussed above (Claim 3), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 12, this is another method version of the claimed method discussed above (Claim 4), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 13, this is another method version of the claimed method discussed above (Claim 5), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 14, this is another method version of the claimed method discussed above (Claim 6), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 15, this is another method version of the claimed method discussed above (Claim 7), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 16, this is another method version of the claimed method discussed above (Claim 8), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 18, Kato discloses the method of claim 17 wherein the peripheral device further comprises a non-volatile storage memory for non-volatilely storing the first program code; when executing the device inspection step before the first program code is replaced by the second program code, the device inspection step precedes the first program code being erased and the second program code being recorded in the non-volatile storage memory (e.g. Fig. 1, 204 and related text).

Per claim 19, Kato discloses the method of claim 9 wherein the peripheral device is an optical drive (e.g. FIG. 3 and related text).

Per claim 20, this is the peripheral device version of the claimed method discussed above (Claim 9), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 21, this is the peripheral device version of the claimed method discussed above (Claim 10), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 22, this is the peripheral device version of the claimed method discussed above (Claim 11), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 23, this is the peripheral device version of the claimed method discussed above (Claim 12), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 24, this is the peripheral device version of the claimed method discussed above (Claim 13), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 25, this is the peripheral device version of the claimed method discussed above (Claim 14), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 26, Kato discloses the peripheral device of claim 20 wherein if partial content of the second program code does not conform to the predetermined content, the control circuit will cease to replace the first program code with the second program code after the checking module operates an examining process (col. 4: 1-10 "... determines operation is possible ... and firmware is updated ...").

Per claim 27, Kato discloses the peripheral device of claim 20 wherein after the checking module ensures that partial content of the second program code conforms to the predetermined content, the control circuit replaces the first program code with the second program code so that the control circuit can execute the second program code to control operations of the peripheral device (e.g. FIG. 2, and related text).

Per claim 28, Kato discloses the peripheral device of claim 20 further comprising a buffer for volatilely storing data, wherein the control circuit temporally stores the second program code in the buffer and the checking module operates an examining process after the control circuit accesses partial content of the second program code (e.g. Fig. 1, and related text).

Per claim 29, Kato discloses the peripheral device of claim 28 being applied in an electronic system, the electronic system further comprising a host device, wherein the second program code is transmitted from the host device to the peripheral device (e.g. Fig. 3 and related text).

Per claim 30, Kato discloses the peripheral device of claim 28 further comprising a non-volatile storage memory for non-volatilely storing the first program code; when the checking module operates the examining process before the first program code is replaced by the second program code, the device inspection step precedes the first program code being erased and the second program code being recorded in the non-volatile storage memory (e.g. Fig. 1, 204 and related text).

Per claim 31, this is the peripheral device version of the claimed method discussed above (Claim 1), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kato.

Per claim 32, Kato discloses the method of claim 31 wherein the inspection step is proceeded by the host device (e.g. Fig. 1 and related text).

Per claim 33, Kato discloses the method of claim 31 wherein the inspection step is proceeded by the control circuit of the peripheral device (e.g. Fig. 1, 102 and related text).

Per claim 34, Kato discloses the method of claim 31 wherein the content characteristic is an address where predetermined content is located in the second program code and the predetermined characteristic is a predetermined address; the inspection step further comprising checking whether the address where the predetermined content is located in the second program code is equal to the predetermined address (col. 4: 39-50 "... a check is made to verify whether or not an optional device is connected ..." e.g. Fig. 2, S14 and S16 and related text).

Response to Arguments

6. Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection. See Kato art made of record.

In the Remark the Applicants argue:

The determination process taught by Kato is to check the compatibility between different devices rather than the compatibility between the updated firmware and original firmware to be replaced by the updated firmware (page 11). Therefore, whether or not there is compatibility does not refer to compatibility between content of original firmware and updated firmware to be downloaded, but refers to compatibility between the peripheral device and the host (page 11).

Examiner's Response:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., compatibility does not refer to compatibility between content of original firmware and updated firmware to be downloaded) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1 181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In the Remark the Applicants argue:

Kato does not disclose a step of checking whether partial content of the second program conforms to a predetermined content of the first program code (page 12).

Examiner's Response:

The examiner respectfully traverse that FIGS. 4(A) - 4(D) show examples of tables having information on firmware compatibility. The right side in each drawing of FIG. 4 shows

the corresponding download in each table. These figures show how firmware compatibility is detected. The two different devices are compared using the content of firmware, identification code. The firmware includes identification code. Hence identification code is the partial code of the firmware.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac T. Tecklu whose telephone number is (571) 272-7957. The examiner can normally be reached on M-TH 9:30A - 8:00P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Isaac Tecklu
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December 11, 2007



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